

OFFICE OF THE STANDING CHAPTER 13 TRUSTEE
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UNITED STATES BANKRUPTCY COURT
NORTHERN DISTRICT OF TEXAS
FORT WORTH DIVISION

IN RE:	§	CASE NO. 18-42180-MXM-13
	§	
LETICIA DIANA AUVENSHINE	§	
	§	
DEBTOR	§	

TRUSTEE'S MOTION TO DISMISS CASE WITH PREJUDICE AS TO RE-FILING

TO THE HONORABLE U. S. BANKRUPTCY JUDGE:

COMES NOW Pam Bassel, Standing Chapter 13 Trustee, and pursuant to 11 U.S.C. § 1307(c) and FED. R. BANKR. P. RULE 9014 files this Motion to Dismiss the above proceeding with prejudice for a period of FIVE years as to re-filing and would respectfully show the Court as follows:

1. On June 4, 2018, Debtor filed this Chapter 13 case *pro se*.
2. The Trustee would show that this is the Debtor's **FIFTH** Chapter 13 Bankruptcy case filed since August 3, 2013. The previous cases are listed as follows:
 - a. Case No. 13-43514 filed on August 3, 2013. The Debtor's Chapter 13 case was dismissed on December 5, 2013 for failure to confirm. Debtor was represented by counsel.
 - b. Case No. 14-41915 filed on May 5, 2014. The Debtor's Chapter 13 case was dismissed on January 7, 2015 for the Debtor's failure to comply with interlocutory order. Debtor was represented by counsel.
 - c. Case No. 15-41371 filed on April 6, 2015. The Debtor's Chapter 13 case was dismissed on February 8, 2016 for failure to make plan payments. Debtor was represented by counsel.
 - d. Case No. 16-42293 was filed on June 9, 2016. The Debtor's Chapter 13 case was dismissed with prejudice as to re-filing for a period of one year on August 23, 2017.
3. The current case was filed during the period in which the Debtor was barred from filing another bankruptcy case.
4. The previous filings of Debtor show a pattern of conduct that does not comport with the spirit of the Bankruptcy Code's provisions. This supports a conclusion that the latest in a series of petitions was filed for the primary purpose of delaying creditors and constitutes "serial filings."
5. Although the filing of serial bankruptcy petitions is not per se prohibited, the Debtor's serial filings exhibit a lack of "good faith" as required by § 1325(a)(3) and (a)(7). This may provide cause for dismissal pursuant to § 1307(c) which states in part: ". . . on the request of a party in interest . . . and after

notice and a hearing, the court may convert . . . or may dismiss a case under this chapter, whichever is in the best interests of creditors and the estate, for cause"

6. In addition, Debtor's filing of serial bankruptcy cases is a misuse of the bankruptcy process. Debtor's attempt to manipulate the judicial process by re-imposing the automatic stay through multiple filings works a fraud on creditors. An abuse of § 362 occurs when the debtor has no intention of effectuating a realistic plan and the Bankruptcy Court's self-executing injunction results in unnecessary and costly delay. Abuse of the automatic stay provision (by multiple filings) mandates imposing the measures provided under Bankruptcy Rule 9011. *See In re Frenz*, 142 B.R. 611 (Bkrtcy. D. Conn. 1992).
7. The Debtor's action in filing this latest petition was not in good faith as required by § 1325(a)(7).
8. Trustee requests that the Debtor's Chapter 13 case be dismissed with prejudice as to re-filing for a period of FIVE years and that if any bankruptcy cases are filed during the period in which the Debtor is barred from re-filing that no automatic stay go into effect in the subsequent cases.

WHEREFORE, PREMISES CONSIDERED, Trustee prays that the Motion to Dismiss Case with Prejudice be GRANTED barring Debtor from re-filing another Bankruptcy case for FIVE years and for such other and further relief that may be granted.

Respectfully submitted,

By: /s/ Ethan S. Cartwright
Ethan S. Cartwright, Staff Attorney
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CERTIFICATE OF SERVICE

I hereby certify that a true and correct copy of the above and foregoing instrument was served on the date that the instrument was filed electronically. Service was accomplished electronically and/or by first class mail on the Debtor.

By: /s/ Ethan S. Cartwright
Ethan S. Cartwright